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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date:

IN RE: Applicant: [REDACTED]

JAN 20 2005

APPLICATION: Application for Status as a Temporary Resident pursuant to Section 210 of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1160

ON BEHALF OF APPLICANT: Self-represented

PUBLIC COPY

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the Director, Western Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the eligibility period. This decision was based on adverse information provided by [REDACTED] for whom the applicant claimed to have worked.

On appeal, the applicant asserts that she worked at different places in the 1985-86 period. She states that she did not mention them all initially because she thought the one claim would suffice.

In order to be eligible for temporary resident status as a special agricultural worker, an alien must have engaged in qualifying agricultural employment for at least 90 man-days during the twelve-month period ending May 1, 1986, and must be otherwise admissible under section 210(c) of the Act and not ineligible under 8 C.F.R. § 210.3(d). 8 C.F.R. § 210.3(a). An applicant has the burden of proving the above by a preponderance of the evidence. 8 C.F.R. § 210.3(b).

On the Form I-700 application, the applicant claimed 103 man-days of qualifying agricultural employment for [REDACTED] in Santa Maria, California from May to December 1985. In support of the claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment letter, both purportedly signed by [REDACTED]. On her application the applicant did not claim to have worked for anyone else during the requisite period. In fact, according to the notes of an officer of the Immigration and Naturalization Service who later interviewed the applicant regarding this application, she stated that the only agricultural work she had was for [REDACTED].

In attempting to verify the applicant's claimed employment, the director acquired information which contradicted the applicant's claim. On July 30, 1989, [REDACTED] stated in a letter to the director that he had never been a farm labor contractor, but rather was a sharecropper, foreman, and supervisor at various farms in the Santa Maria Valley in Southern California. [REDACTED] stated that his signature had been falsified on employment documents, and submitted a list of 267 names belonging to the individuals who had actually worked for him or with him. The applicant is not named on this list. [REDACTED] also informed the director that he worked during the qualifying period only from May 6, 1985 to December 17, 1985.

The applicant was advised in writing of the above adverse information, and of the fact that the signature of [REDACTED] on the applicant's documents did not resemble [REDACTED] actual signature. The applicant was granted thirty days to respond. She replied by indicating that she worked at many ranches, including two for [REDACTED]. She also stated that she had worked for [REDACTED] and provided an affidavit from him. It indicated that she worked for him from December 1985 to March 1986 at Toshi Masumotto Farms. Nevertheless, the director denied the application, finding the applicant's claims to be not credible.

On appeal the applicant provides an affidavit from [REDACTED] who reaffirms the applicant's claim to have worked for [REDACTED]. She states that she knows this to be true because the applicant married a member of her family.

Also submitted is an affidavit from [REDACTED] who supports the applicant's claim to have worked for [REDACTED] and [REDACTED]. He indicates that he introduced the applicant to [REDACTED]. Another affiant [REDACTED] attests to the applicant's employment for [REDACTED] and [REDACTED]. Each affiant indicates he worked with the applicant for [REDACTED].

Generally, the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility, and amenability to verification. 8 C.F.R. § 210.3(b)(1). Evidence submitted by an applicant will have its sufficiency judged according to its probative value and credibility. 8 C.F.R. § 210.3(b)(2). Personal testimony by an applicant which is not corroborated, in whole or in part, by other credible evidence (including testimony by persons other than the applicant) will not serve to meet an applicant's burden of proof. 8 C.F.R. § 210.3(b)(3).

There is no mandatory type of documentation required with respect to the applicant's burden of proof; however, the documentation must be credible. All documents submitted must have an appearance of reliability, i.e., if the documents appear to have been forged, or otherwise deceitfully created or obtained, the documents are not credible. *United Farm Workers (AFL-CIO) v. INS*, Civil No. S-87-1064-JFM (E.D. Cal.).

The applicant states on appeal that she initially did not mention her other employment because she assumed that her employment for [REDACTED] would suffice. It is noted that the instructions to the application do not encourage an applicant to limit her claim; rather they encourage the applicant to list multiple claims as they instruct her to show the most recent employment first. Furthermore, according to the notes of the interviewing officer, such officer specifically asked the applicant if she worked for people other than Frank Vega, and the applicant replied that she had not. While it might be true that an applicant would not necessarily feel a need to list all employment on an application, it is not known why an applicant would fail to disclose beneficial information when specifically asked whether she had other claims to eligibility.

Significant issues of credibility arise when an applicant claims employment that is called into question through investigation, and later attempts eligibility with a different employer, heretofore never mentioned.

For these reasons, the applicant's claim of employment for [REDACTED] will not be viewed as credible.

The applicant is not named on the list of employees provided by [REDACTED]. Neither are the two affiants who have stated that they worked with her for [REDACTED]. [REDACTED] has not reiterated that the applicant did indeed work for him. The applicant has not overcome this adverse evidence that directly contradicts the

applicant's claim. Therefore, the documentary evidence submitted by the applicant regarding this claim cannot be considered as having any probative value or evidentiary weight.

Under these circumstances, it cannot be concluded that the applicant has established that she performed at least 90 man-days of qualifying agricultural employment during the statutory period ending May 1, 1986. Consequently, the applicant has not demonstrated her eligibility for temporary resident status as a special agricultural worker.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.